

## SECTION 504 OF THE REHABILITATION ACT OF 1973

### Overview/Definitions

The Rehabilitation Act of 1973 was passed to protect the civil and constitutional rights of people with disabilities from discrimination. [Section 504](#) of that law protects children in public schools from discrimination based on disability. It states that “no otherwise qualified person with a disability shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of, and/or be subjected to discrimination under any program or activity”.

The law applies to recipients of federal funds and includes post secondary educational institutions as well as elementary and secondary school.

Additionally, it requires schools to provide a free and appropriate public education (FAPE) by guaranteeing that children with disabilities have equal opportunity to participate in:

- Non academic services
- Extracurricular activities
- Transportation
- Health Services
- Recreational programs
- Counseling
- Athletics
- Special interest groups and school sponsored clubs
- Referrals to service providers and for employment

Further, in order to provide full, equal educational opportunities to children with disabilities, public schools must make reasonable accommodations and provide auxiliary aides (i.e., course adaptations, extension of time for tests, elimination of restriction over support dogs or tape recorders, interpreters, temped texts, etc.) unless the recipient of federal funds can demonstrate that the accommodation would impose an undue hardship on the operation of it's program.

Courts have required accommodations that achieve “meaningful equal opportunity.”

Accommodation must be individualized.

The individual needs of the person with a disability should be met to the same extent as the needs of an individual without a disability.

Modifications can be made to regular programs or the provision of a different program may be necessary.

Accommodations should place the student with a disability at an equal starting level with peers without disabilities.

Section 504 also supports inclusion with the statement, “to the maximum extent appropriate to their needs, children with disabilities should be educated with those without disabilities.”

### **Eligibility**

Under Section 504 a person is considered to have a disability if he/she has a physical or mental impairment which substantially limits one or more major activities, has a record of such impairment, or is regarded as having such impairment.

Section 504 defines disabilities as those “severe enough to substantially limit one or more of the major life functions”:

Walking

Speaking

Working

Seeing

Breathing

Learning

Hearing

Performing Manual Tasks

Caring For Oneself

While it is not specific as to the type of evaluation, Section 504 requires an evaluation to determine how the disability substantially limits one or more of the major life functions. It is not necessary that the evaluation be conducted by the school. A private evaluation secured by the parents from professionals trained in the specific disability or a psychologist, psychiatrist, neurologist, physician, etc. can be used. It is also helpful if the classroom teachers take part in evaluating how the disability affects the child’s ability to learn. An accommodation plan is developed from the

information included in the evaluation (s).

Sometimes the school district conducts evaluations as prescribed by IDEA. When the child is determined not to meet the IDEA criteria, they should look to see if the child meets the definition of disabled under Section 504

### **Appeals**

When someone believes a child is being discriminated against because of their disability they may file a complaint to the Regional Office of Civil Rights. The complaint can come from the parent, the child, or any interested party. It can even be handled as an anonymous complaint if requested. The letter should state:

1. Who was discriminated against?
2. In what way?
3. By whom or what institution?
4. When the discrimination occurred?
5. Who to contact for further information?
6. The complainant's name, address, telephone number.
7. Background information to the extent possible.

It should be addressed to:

Regional Office Rights Director  
Office of Civil Rights, Region VII  
10220 N. Executive Hills Blvd., 8th floor  
Kansas City, MO 63190-1318

### **Procedures**

In order to document required adaptations and modification, the schools are required to develop a person centered plan, sometimes referred to as a 504 plan. While the format is not prescribed as it is in IDEA (the IEP, see next section of this manual), it should describe the nature of concerns, how the disability affect a major life activity such as learning, motor development, speech, etc. and list the accommodation and modification to be made. The plan should be developed using a team approach (although not specifically prescribed by this law) and should have the signatures of those involved in the development of the plan.

Each school district is required to have a Section 504 Compliance Coordinator. If a family wants to develop a Section 504 individual student plan, they should contact the 504 coordinator for their school district.

### **Support Coordinator (Formally Known as Service Coordinator) Responsibilities**

- Be familiar with Section 504
- Assist families in understanding their rights under this section of the law
- Provide referral to agencies that can support the family if they suspect that the section has been violated, e.g., MPACT, Missouri Protection and Advocacy, Legal Aid.
- Provide advocacy to the extent that the child's parents or legal guardian request it.

### **Additional Considerations**

When to consider possible Section 504 protection:

1. When suspension or expulsion is being considered.
2. When retention is being considered.
3. When a student shows a pattern of not benefiting from the instruction provided.
4. When a student returns to school after a serious injury or illness.
5. When a student is identified as "at risk" or exhibits the potential for dropping out of school.
6. When substance abuse is an issue.
7. When a student exhibits a chronic health condition (such as attention deficit disorder, asthma, muscular dystrophy, etc.)
8. When a disability of any kind is suspected (particularly if the child has average or above average intelligence and the parent is opposed to special education label).